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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/595,260 | 06/15/2000 | Vasco Vollmer | 1224 | 8984 |

7590 01/06/2005
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

LAMARRE, GUY J

ART UNIT PAPER NUMBER

2133

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/595,260

Applicant(s)

VOLLMER ET AL.

Examiner

Guy J. Lamarre, P.E.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 Sept. 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-31 is/are pending in the application..
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

NON-FINAL OFFICE ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection on 16 Sept. 2004. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission jointly filed has been entered.

1.0 This office action is in response to such Applicants' Amendment/submission.

1.1 **Claims 19 and 23** are amended. **Claims 19-31** remain pending.

1.2 The prior art rejections of record to **the Claims** are withdrawn in response to Applicants' amendment.

Response to Arguments

2. Applicants' arguments of 16 Sept. 2004 have been fully considered and are persuasive only to the extent that the step whereby 'halting is effected when a predetermined maximum number of repeat transmissions has been reached within said predetermined time interval' or 'when a positive acknowledgement of receipt of said one of said messages is received by the central station' is not specifically described in detail by GONNO.

Said step is supported by newly found reference, e.g., in Figs. 1-4 and col. 2 line 37, col. 6 lines 45-50 et seq., of **Bims et al.** (US Patent No. 6,557,134; filed 30 Sept. 1997), as follows.

Claim Rejections - 35 USC ' 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3.0 This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3.1 **Claims 19-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over GONNO (EP Patent No. 000876023; 4 NOV. 1998) and **Bims et al.** (US Patent No. 6,557,134; filed 30 Sept. 1997).

As per **Claims 19-31**, Gonno substantially discloses an algorithmic means for providing frame re-transmission in a broadcast communication system, comprising: a receiver (col. 4 line 9 and col. 5 lines 9-10) for receiving a message indicative of a frame received in error by a wireless communication device, said message including an identification of said frame; a memory (col. 4 line 27; *(e.g., if an error is detected at the receiver, a NAK or repeat request is issued therefrom to the transmitter so that the frame marked as errored is to be retransmitted, said receiver/transmitter having storage means to hold/process such request.)*) for storing a predetermined number for determining when to re-transmit said frame; and a processor (col. 4 line 11) for determining a cumulative number of times that said frame was received in error and for ordering a re-transmission of said frame if said cumulative number of times is greater than said predetermined number *(e.g., if predetermined number is zero, there is no frame retransmission, otherwise, the frame is retransmitted).*

Not specifically described in detail by GONNO is the step whereby 'halting is effected when a predetermined maximum number of repeat transmissions has been reached within said predetermined time interval' or 'when a positive acknowledgement of receipt of said one of said messages is received by said central station.'

However **Bims et al.**, in an analogous art, discloses an ARQ termination or abort

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procedure wherein ARQ sessions are terminated via plural criteria comprising stopping such ARQ session when maximum number of retransmissions under control of a timer (or predetermined time interval) is reached or aborting such ARQ session when positive acknowledgement from transceiver is received. {See **Bims et al.**, Id., e.g., at col. 2 line 37, col. 6 lines 45-50 to col. 7 line 45, col. 8 line 29, col. 9 line 40.}

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the process of **GONNO** by including therein the techniques as disclosed by **Bims et al.** because such modification would provide the procedure of **GONNO** with a method whereby transceiver power consumption is optimized, e.g. *"the entire ARQ message may be received by the receiver with no errors in the message while using a reduced number of extraneous transmissions, thereby saving power consumption by the pager and prolonging battery life."* {See **Bims et al.**, Id., col. 9 line 39 et seq.}

Conclusion

4. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Customer Services, 220 20th Street S., Crystal Plaza II, Lobby, Room 1B03, Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (571) 272-3826. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3609.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E
Primary Examiner
1/3/05
